

**HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR****Single Bench: Hon'ble Shri Satish K. Agnihotri, J.****WRIT PETITION NO. 15 OF 2003**

Petitioner : Smt. Sarla Karmahe, aged about 46 years, wife of Shri Gyanesh Kumar, Karmahe, U.D.C. Grade II, Government Science College, Rajnandgaon, Chhattisgarh.

Versus

Respondents : 1. State of Chhattisgarh, through: the Secretary, Department of Higher Education Mantralay, D.K.S. Bhawan, Raipur (C.G.).

2. Principal, Government Science College, Rajnandgaon, Chhattisgarh.

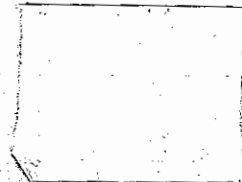
**Present:** Smt. Renu Kochar, counsel for the petitioner.  
Shri Pankaj Shrivastava, Panel lawyer for the respondents/ State.

**ORAL ORDER****( 3<sup>rd</sup> February, 2006)**

1. Learned counsel for the petitioner submits that the petitioner, who was working as U.D.T. Grade II in the Government Science College, Rajnandgaon, was transferred to the Government College, Manpur, District Rajnandgaon vide order dated 19.9.2002
2. The petitioner has challenged the validity of the impugned order dated 19.9.2002 on the ground that the order was passed in malafide exercise of power. The petitioner has filed O.A. No. 2969/2002 before the Madhya Pradesh Administrative Tribunal, Jabalpur. Learned Administrative Tribunal dismissed her application on 1.10.2002 with the

direction that the representation of the petitioner would be considered and decided within one month from the communication of the said order.

3. According to learned counsel for the petitioner, the authorities did not consider her representation and as such the petitioner was constrained to file this petition, praying for same relief, which she had sought in O.A. No. 2969/2002. This Court, vide order dated 9.1.2004, stayed the impugned transfer order. The impugned transfer dated 19.9.2002 could not be given effect to by virtue of the order dated 1.10.2002 passed by the Madhya Pradesh Administrative Tribunal in O.A. No. 2969/2002 and order dated 9.1.2004 passed by this Court.
4. Since the impugned order could not be given effect to, it is not necessary to go into the validity of the said impugned order and the said impugned order cannot be given effect to now. It is further for the employer to post an employee at a particular place in public interest as well as in administrative exigency. However, in the facts of the case, where grievance of the petitioner is that she has three daughters and she is suffering from thyroid gaiter, which requires extensive medical treatment and same is not possible at any other place, the respondents are directed to consider her physical condition as well as other family problems, while passing any order of transfer from the present place of posting i.e. Government Science College, Rajnandgaon. In the facts and circumstances of the case, it is expected that the



respondents/authorities will not insist upon compliance of the earlier impugned transfer order.

5. The petition is accordingly disposed of. No order as to costs.

Sd/-  
Satish K. Agnihotri  
Judge

Bablu